

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: SALVADOR DIAZ,

1:21-CV-8687 (LTS)

TRANSFER ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Petitioner Salvador Diaz has brought a *pro se* motion to vacate, set aside, or correct a federal sentence that is pending before District Judge Valerie Caproni of this court. *See Diaz v. United States*, Nos. 1:17-CR-0227, 1:21-CV-2403 (VEC) (S.D.N.Y.) (“*Diaz I*”). In a September 15, 2021 endorsement in *Diaz I*, Judge Caproni denied Petitioner’s request for Judge Caproni to recuse herself from that action. ECF 1:17-CR-0227, 181. On October 21, 2021, the court received from Petitioner a *pro se* petition for a writ of mandamus – captioned for the United States Court of Appeals for the Second Circuit – which was filed in *Diaz I*. By order dated one day later, on October 22, 2021, Judge Caproni directed the Clerk of Court to open the mandamus petition as a new civil action. ECF 1:17-CR-0227, 184. This action was opened as a result of that order.

In his mandamus petition, Petitioner challenges Judge Caproni’s decision to deny his request for Judge Caproni to recuse herself from *Diaz I*, and he asks the Second Circuit to issue a writ of mandamus directing Judge Caproni to recuse herself from *Diaz I*, and directing the reassignment of *Diaz I* to another district judge. Because Petitioner seeks relief from the Second Circuit, this Court transfers this action to the Second Circuit.

CONCLUSION

In the interest of justice, the Court directs the Clerk of Court to transfer this action to the United States Court of Appeals for the Second Circuit. *See* 28 U.S.C. § 1631. This order supersedes the provision of Local Civil Rule 83.1 that requires a seven-day delay before the

Clerk of Court may effectuate the transfer of this action to the transferee court. This order closes this action in this court.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Court also directs the Clerk of Court to mail a copy of this court to Petitioner and note service on the docket.

SO ORDERED.

Dated: October 26, 2021
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge